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HOUSE BILL 178

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Anna M. Crook

FOR THE REVENUE STABILIZATION AND TAX POLICY COMMITTEE

AN ACT

RELATING TO TAXATION; AMENDING THE UNIFORM UNCLAIMED PROPERTY
ACT TO CAP RECOVERY FEES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 7-8A-25 NMSA 1978 (being Laws 1997,
Chapter 25, Section 25, as amended) is amended to read:

"7-8A-25. AGREEMENT TO LOCATE PROPERTY.--

A. An agreement by an owner, the primary purpose of
which is to locate, deliver, recover or assist in the recovery
of property that is presumed abandoned, is void and
unenforceable if it was entered into during the period
commencing on the date the property was presumed abandoned and
extending to a time that is forty-eight months after the date
the property is paid or delivered to the administrator. This
subsection does not apply to an owner's agreement with an

.174570.1SA

underscored material = new
[bracketed material] = delete

underscored material = new
[bracketed material] = delete

1 attorney to file a claim as to identified property or contest
2 the administrator's denial of a claim.

3 B. An agreement by an owner, the primary purpose of
4 which is to locate, deliver, recover or assist in the recovery
5 of property, is enforceable only if the agreement is in
6 writing, provides for a fee of not more than ten percent of the
7 value of the property recovered, clearly sets forth the nature
8 of the property and the services to be rendered, is signed by
9 the apparent owner and states the value of the property before
10 and after the fee or other compensation has been deducted.

11 C. If an agreement covered by this section applies
12 to mineral proceeds and the agreement contains a provision to
13 pay compensation that includes a portion of the underlying
14 minerals or any mineral proceeds not then presumed abandoned,
15 the provision is void and unenforceable.

16 D. An agreement covered by this section [~~which~~]
17 that provides for compensation that is unconscionable is
18 unenforceable except by the owner. An owner who has agreed to
19 pay compensation that is unconscionable, or the administrator
20 on behalf of the owner, may maintain an action to reduce the
21 compensation to a conscionable amount. The court may award
22 reasonable attorney fees to an owner who prevails in the
23 action.

24 E. This section does not preclude an owner from
25 asserting that an agreement covered by this section is invalid

.174570.1SA

underscoring material = new
[bracketed material] = delete

1 on grounds other than unconscionable compensation."

2 Section 2. EFFECTIVE DATE.--The effective date of the
3 provisions of this act is July 1, 2009.

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